SIKKIM

GOVERNMENT GAZETTE

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GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 1/LD/P/2005 Date: 25/4/05

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 9th day of March, 2005 is published for general information.-

THE SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS ACT, 2005
(ACT NO. 1 OF 2005)
AN
ACT

to provide for the protection and improvement of environment and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Sikkim in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER I
PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Sikkim Ecology Fund and Environmental Cess Act, 2005.
(2) It extends to the whole of Sikkim.
(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context:-
(a)"biodegradable materials" means materials, articles and goods that are degraded as a result of microbial activity in natural environment under normal course;
Explanation- Materials articles and goods deemed to be "bio degradable" are prescribed in the Schedule I for the purpose of this Act:
Provided that the State Government may amend or modify the Schedule I by notification if deemed necessary;

(b) "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;

(c) "Cess" means cess or fee payable under this Act;

(d) "dealer" means any person who carries on business of buying and selling of goods specified in the Schedules or services for commission, remuneration or otherwise and includes any individual, firm, Hindu Undivided family, company, corporation, a department of State or Central Government, Public Sector Undertaking, Autonomous body, society, club or association (or the incorporation of such society, club or association).

Explanation 1.- A broker, commission agent who carries the business of procuring goods or services from outside the State of Sikkim for the purpose of buying and selling of goods or services having impact on environment and who has authority to procure and sell such goods or services belonging to their owner shall be deemed to be dealer for the purpose of this Act;

Explanation 2.- The manager or agent of a dealer residing inside or outside the State, and who procuresgoods or services from outside the State of Sikkim and sells goods or services within the State, shall in respect to such business, be deemed to be a dealer for the purpose of this Act;

Explanation 3.- The proprietor, manager or agent of a hotel,resort, lodge or motel who carries out the business of providing services like lodging,boarding or ready to eat food facilities to customers on payment of cash or by credit card or by deferred payment be deemed to be a dealer for the purpose of this Act;

Explanation 4.- Head of a Department or an officer specifically designated for the purpose from various State Government Departments, Central Government Departments, Public Sector Undertaking, Semi-autonomous bodies or Autonomous bodies procuring materials from outside the State and liable to pay cess imposed under the provisions of this Act shall be deemed to be dealer for the purpose of this Act.

(e) "Department" means the Department of State Government dealing with Environment and or Department of the State Government entrusted with responsibility of collection of cess under this Act;

(f) "hotel" "resort" "lodge" and "motel" means any premises that is used for providing services like lodging or boarding or ready to eat food facilities to customers on payment in consideration thereof;

(g) "manufacture" with all its grammatical variations and cognate expressions, means producing,making, extracting altering, repairing, ornamenting, finishing, packing, fabricating, or otherwise processing or adopting any goods specified in the Schedules but does not include such manufacture or manufacturing process as may be prescribed;

(h)"non biodegradable materials" means materials, articles and goods that are not degraded by microbial activity and shall include all kind of goods in solid, liquid or gaseousform that are not degraded in natural environment under normal course;

Explanation- Materials, articles and goods deemed to be "non- bio degradable" are included in the Schedule I for the purpose of this act:

Provided that the Schedule II can be modified by the State Government by notification if deemed necessary.(i) "notification" means a notification published in the Official Gazette;

(j) "prescribed" means prescribed by rules made under this Act or as prescribed by notification under this Act by the State Government;

(k) "prescribed authority" means authority appointed by the State Government by notification under sub-section (1) of Section 4;

(l) "registered dealer" means a dealer registered under section 10;

(m) "sales" with its grammatical variations and cognate expression means any transfer of property in goods or services by one to another for cash or for deferred payment;
(n) "sale price' means the amount payable to a dealer as consideration for the sale of goods or services less any sum allowed as cash discount;

Explanation 1. - In respect of goods or services delivered on hire purchase or any system of payment by instalments, the total sale price (including the amount payable and interest thereupon) on the date of such delivery of goods or services shall be taken as the sale price for the purpose of this Act.
Explanation 2.- The sale price shall include the excise duty, value added tax or any other levies on the goods, under any Central or State law for the time being in force,made at the time of or before the delivery of the goods or services to the buyer whether such duty, fee or other levy is paid by the purchaser of the goods to the seller alongwith the consideration for the sale or directly to the Government;

(o) "Sikkim" means the territory comprised in the State of Sikkim;

(p) "State Government" means the Government of Sikkim;

(q) "turnover' used in relation to a establishment over any period means the aggregate of sale or services price or part of sale or services price receivable;

(r) "year' means the financial year commencing on the first day of April and ending on the 31st day of March next following.

CHAPTER II
GENERAL POWERS OF THE STATE GOVERNMENT

General powers of the State Government to protect and improve environment

3. (1) Subject to the provisions of this Act, the State Government shall have powers to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment, controlling and abating environmental pollution and take measures for restoration of ecological balance of the State.

(2) In particular and without prejudice to generality of the provisions of the sub section (1) , such measures may include measures with respect to all or any of the following matters, namely:-

(a) Coordination of actions of different Departments of the State Government officers, and other authorities under this Act or rules made thereunder or under any law for the time being in force for the purpose of achieving objectives of environmental conservation and improvement;

(b) laying down procedures for implementation of this Act;

(c) impose levy of environment cess or fee wherever the abuse of environment can not be prevented;

(d) create a separate non lapsable 'Sikkim Ecological Fund' for depositing such fee or cess as imposed by clause (c) and ensuring utilization of such fee or cess for environmental amelioration measures;

(e) impose restrictions of areas in which any industry, operations or process or class of industries or operations shall not be carried out or shall be carried out with certain safeguards on payment of cess or fee as may be prescribed by the State Government by notification;

(f) impose restrictions on entry of vehicles of any kind or by persons in any area as specified and regulate the entry on payment of environmental fee as may be prescribed by the State Government by notification;

(g) such matters as the State Government considers necessary or expedient for the purpose of protecting and improving the quality of environment and for the purpose of securing effective implementation of this Act.

(3) The State Government may, if it considers it necessary or expedient to do so for the purpose of this Act, by order published in the Official Gazette, constitute an authority or authorities or a body by such name or names as may be specified in the order for the purpose of exercising and performing such of powers and functions of the State Government under this Act for taking measures with respect to such of the matters referred to in this Act and may be mentioned in the order and subject to supervision and control of the Government and the provisions of such order , such authority or the authorities or body may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities or body had been empowered by this Act to exercise those powers or perform those functions or to take such measures as deemed necessary.

CHAPTER III
CESS COLLECTING AUTHORITY

Environment cess collecting Authorities

4. (1) For carrying out the purpose of this Act, the State Government may appoint a person to be the prescribed authority under the Act and also such other persons with such designation to assist him as may be necessary and as may be specified in this behalf by the State Government by notification.

(2) The prescribed authority and other persons appointed under sub-section (1) shall exercise such powers as may be prescribed and perform such duties as are imposed upon them by this Act or rules made thereunder and as may be specified in this behalf by the State Government by notification.

(3) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860.

CHAPTER IV
INCIDENCE OF CESS

Incidence of cess

5. Environmental cess shall be paid by:-

(a) Every dealer, manufacturer, State and Central Government Department, Public Sector Undertaking, autonomous bodies or other organizations whoever brings non- bio degradable materials as specified in Schedule II in the State of Sikkim from outside the State for selling goods, business, manufacturing, producing any product or for use for whatsoever purpose in the State, on the sale price from the date of commencement of this Act.

(b) Individual users who bring non bio degradable materials as specified in Schedule II from outside the State, for his own use and consumption, on the sale price from the date of commencement of this Act.

(c) Every hotel, resort, lodge or motel operating with in the State on its annual turnover:

Provided that State Government may exempt such hotels resorts lodges and motels below a particular turnover or provide a grace period of operation of hotels, resorts, lodges or motels since inception for promoting hotel industry, as may be specified in this behalf the State Government by notification.

(d) On every entry in the State of such categories of vehicles as may be prescribed at such rates as may be specified by notification by the State Government.

(e) On any such other item having impact on environment directly or indirectly at such a rate as may be prescribed by the Government by notification.

Rate of cess

6. (1)The cess payable by a dealer or an individual under this Act shall be levied at the following rates:-

(a) in respect of goods specified in Schedule II, at the rate of 1% of total turnover on sale price of non-bio degradable materials;
(b) in respect of hotels, resorts, lodges or motels at the rate of 5% of total turnover:

Provided that the State Government may change the rate of leviable cess under clauses (a) and (b) above from time to time by notification:

Provided further that the State Government may add to or omit from, or otherwise amend Schedule II and thereupon the said Schedule shall be deemed to be amended accordingly.

Cess free goods

7. (1) No cess shall be payable under this Act on the sale of goods and services specified in Schedule I subject to the conditions and exceptions, if any, set out therein.

(2) The State Government, may add to or omit from, or otherwise amend Schedule I and thereupon the said Schedule shall be deemed to be amended accordingly.

CHAPTER V
REGISTRATION OF DEALERS

Registration of dealers

8. (1) Every dealer liable to pay cess under this Act shall apply, within 45 (forty five) days of his becoming so liable to the prescribed authority for registration under this Act.

(2) No dealer liable to pay cess under this Act, shall sell or procure and purchase goods unless he is in possession of a valid registration certificate granted to him by or on behalf of the prescribed authority or has applied for such registration within the time specified in sub-section (1) and his application has not been finally disposed of by the said authority.

(3) The prescribed authority may, on receipt of application in the prescribed form from a dealer for registration, and on being satisfied that the application is in order, grant registration from such date as may be specified, to such dealer:

Provided that the said authority may demand such security as may be prescribed from the dealer before registration is granted to him:

Provided further that no application for registration may be refused unless he has been given reasonable opportunity of being heard.

(4) If the prescribed authority is satisfied that a dealer liable to pay cess under this Act has failed to apply for and get himself registered, it may, by a notice in writing, direct the dealer to apply for and get himself registered within 30 (thirty) days of the service of the notice, failing which the dealer shall be liable to pay a penalty of rupees five hundred for each day's delay after the expiry of the said period of 30 days:

Provided that the said authority may on an application of the dealer and for reasons to be recorded in writing, reduce or waive the penalty, if it is satisfied that the delay has been caused by reasons beyond the control of the dealer.

CHAPTER VI
RETURN, ASSESSMENT, AND RECOVERY OF CESS

Returns and payment of cess

9. (1) Every registered dealer shall furnish such returns, for such periods, in such form, to such authority and within such time as may be prescribed.

Explanation-A dealer who gets the registration from a particular date is also liable to furnish return for the period prior to such date during which he was

otherwise liable to pay cess under this Act in such manner as may be prescribed.

(2) The dealer shall before submitting any return pay to the Government in such manner and within such time as may be prescribed the amount of cess due under this Act according to the return and furnish alongwith return proof of payment of cess due as may be prescribed and such return if not accompanied by any such proof of payment shall be deemed invalid and treated as if it has not been furnished.

(3) If a registered dealer fails without reasonable cause to furnish any valid return within the prescribed time or within such further time as may be allowed on application, by the prescribed authority, a penalty at the rate not exceeding rupees one thousand for each day of delay shall be imposed without prejudice to any action that is or may be taken under any of the provisions of this Act.

Assessment and reassessment procedure

10. (1) If the prescribed authority is satisfied that the return of turnover furnished by a dealer is correct and complete, it may, without requiring presence of dealer or requiring any evidence from him, determine the cess due from the dealer and the dealer shall deposit such assessed amount of cess in appropriate head of account in Government revenue.

(2) (a) If the prescribed authority is not satisfied as aforesaid but requires the presence of dealer or production of evidence from him, it may serve on such dealer a notice in the prescribed form requiring him or his representative to attend and produce on a date to be specified, any evidence that the dealer may rely on in support of his return.

(b) On the date specified in the notice or any other date as may be fixed by the prescribed authority under intimation to dealer and after having heard and examining such evidence as the dealer may produce and such evidence as the said authority may require on specified points, it shall, by an order in writing assess and determine the cess payable by the dealer.

(3) If a registered dealer fails to –

(a) furnish any valid return of turnover as required under-sub-section (1) of Section 11; or

(b) comply with the notice issued under sub-section (2) of this Section; or

(c) satisfy the assessing authority about the correctness of the returns furnished; or

(d) appear or produce or cause to be produced evidence on the date specified under sub-section (2), the prescribed authority shall, after giving reasonable opportunity to the dealer of being heard, determine the turnover of the dealer on which cess is to be imposed and assess the cess on basis of such determination and may in addition impose penalty of an amount not exceeding twice the amount of cess so assessed:

Provided that the penalty under this sub-section shall be imposed only if the prescribed authority is satisfied that the failure of the dealer is wilful, deliberate or unjustified and a reasonable opportunity of being heard has been given to the dealer.

(4) If upon information received, the prescribed authority is satisfied that a dealer liable to pay cess under this Act in respect of any period willfully failed to furnish any particulars or information required for the purpose of registration or having been registered fails to furnish returns within the period prescribed under sub-section (1) of Section 9, the said authority shall, after giving the dealer a reasonable opportunity of being heard, assess, according to its best judgment, the amount of cess due from the dealer for such period or any subsequent periods and in addition, may impose a penalty of an amount not exceeding five times the amount of cess so assessed:

Provided that no penalty under this sub-section shall be imposed unless the prescribed authority is satisfied that the failure of the dealer was willful, deliberate or unjustified and unless a reasonable opportunity of being heard is given to the dealer.

Explanation.- For the purpose of sub-section (4) as the case may be , the proceedings shall be deemed to have been initiated when a notice is served or deemed to have been served on the dealer.

Procedure of payment of cess or penalty

11. (1) The cess admissible from a dealer as shown in any return or revised return furnished by him under Section 9 and cess and penalty as due under Section 10 shall be paid in the manner prescribed by or under sub-section (2) of Section 9.

(2) The amount of the cess and penalty assessed as due from the dealer under sub-section (2) and (3) of Section 9 or under sub-section (3) and (4) of Section 10 after deducting any amount paid by him along with the return under sub-section (2) of Section 9 shall be paid by him in such manner and within such time as may be specified in the notice of demand in the prescribed Form issued by the prescribed authority; the date so specified being not less than 30 (thirty) days from the date of service of the said notice:

Provided that the said authority may in its discretion and for reasons to be recorded on application of the dealer extend the date for such payment or allow the payment to be made in instalments as may be determined by it.

(3) If a dealer has failed, without any reasonable cause, to deposit the amount of cess together with the penalty, if any, by the date specified in the notice issued under sub-section (2) or by the date extended by the proviso thereto, interest at eighteen percent per annum compounded on a quarterly basis, shall accrue and be charged on such amount from such date and such interest shall be treated as if it were cess due under this Act and shall be paid by the dealer in the prescribed manner:

Provided that interest shall not accrue or be charged on any amount the recovery of which is stayed under sub-section (5) and (6) during the period the stay operates.

(4) Any amount of cess, penalty or interest due from a dealer which remains unpaid may be recovered on application by the prescribed authority to the Judicial Magistrate of the first class who shall realize it as if it were a fine imposed by him:

Provided that where during the proceedings under this sub-section the amount of cess, penalty or interest due from a dealer is reduced as a result of appeal or otherwise, the prescribed authority shall inform the dealer accordingly and the authority before whom proceedings are pending and the amount reduced shall be deemed to be substituted for the amount originally intimated to the authority.

(5) If any dealer is aggrieved by the imposition of cess, penalty or interest under-sub-section (3)and (4) of Section 10, he may prefer an appeal in writing to the next higher authority to the prescribed authority as notified by the State Government as per procedure laid down in Section 18.

(6) Where an appeal against or an application for revision of the assessment of cess or levy of penalty or interest is entertained, the appellate or the revisional authority as the case may be, may on application stay recovery of the cess, penalty or interest in whole or in part subject to such conditions as it may impose till such date as it may direct:

Provided that the stay of recovery so granted shall stand vacated on the date the appeal or the application for revision is finally decided or on such other date as the appellate or the revisional authority may direct.

(7) In case of individuals who brings such items that attract cess under this Act from outside the State, the cess admissible shall be levied at the check-post by the Department authorized to collect the same as notified by the Government.

Person authorized to collect cess from customers

12. (1) No person other than a registered dealer shall collect or recover from any person any amount towards cess or purporting to be cess under this Act on the sale of goods or services.
(2) No registered dealers shall collect from any person any such amount except in a case in which, and to the extent to which, such dealer is liable to pay cess under this Act.
(3) Nothing contained in sub-section (1) or sub-section (2) shall relieve a registered dealer from his liability for the cess under this Act.

CHAPTER VII
SIKKIM ECOLOGY FUND

Establishment of fund

13. (1) There shall be established for the purpose of this Act a fund to be called the Sikkim Ecology Fund.

(2) The fund shall be under the control of the State Government and there shall be credited to the fund the followings:-
(a) any sum of money credited under Section 14;
(b) any sum collected by the State Government in carrying out its functions under this Act;
(c) any fund provided by the Central Government or the State Government by way of grant or otherwise for the purposes of amelioration of the environment and ecology.

(3) The fund shall be maintained in the form of a current account in a nationalized Bank and the balance to the credit of the fund shall not lapse at the end of the financial year.

Crediting of cess in the fund

14. The proceeds of the cess levied under Section 9, Section 10 and Section 11 shall first be credited to the Consolidated Fund of Sikkim and the State Legislature may by appropriation made by law in this behalf credit the proceeds of these collections to this fund from time to time, for being utilized exclusively for the purpose of this Act.

Utilization of the fund

15. (1) The fund shall be utilized for-
(a) the creation and development of facilities helping in amelioration of environment and maintenance and improvement of environmental services and ecological security of the State;
(b) such other purposes and projects leading directly or indirectly to restoration of ecological balance of the various areas in the State as may be specified by the Government.

Management of the fund

16. (1) For the purposes of ensuring proper utilization of the fund, the State Government may appoint a Government servant to be prescribed authority under the Act and also such other persons with such designations to assist him as may be specified in this behalf by the State Government by notification.
(2) The prescribed authority under sub-section (1) shall maintain proper accounts and other relevant records in such forms and in such manner as may be prescribed.

CHAPTER VIII
SUITS, APPEAL, REVISION AND REVIEW

Bar to certain proceedings

17. (1) No assessment made, proceedings taken or order passed under this Act shall be called into question in any Court save as otherwise provided in this Act.

(2) No suit, prosecution or other legal proceedings shall lie against any public servant or any person appointed under Section 4 or Section 16 for anything done in good faith under this Act or the rules made or notifications issued thereunder save with the previous sanction of the State Government.

Appeal, revision and review

18. (1) Subject to such rules as may be made, any dealer may, in the prescribed manner appeal to such authority as may be prescribed against any order passed under sub-section (3) of Section 9, sub-section (3) and (4) of Section 10 and sub-section(3) of Section 11 of the Act.

(2) No such appeal shall be entertained unless,-

It is accompanied by proof of payment in such manner as may be prescribed, of the amount of cess admitted by the dealer to be due from him and twenty five percent of the difference between such amount of cess including penalty and interest assessed.

(3) The aforesaid appellate or revising authority may-

(a) confirm, reduce, annul, enhance or otherwise modify the assessment of cess, penalty or interest;

(b) set aside any order and direct the authority which made the order, to pass a fresh order after further enquiry on specified points;

or

(c) pass such other orders as it may deem fit and proper.

(4) No order prejudicial to any dealer shall be passed under this section without a reasonable opportunity of being heard/being given to him.

Payment of fee

19. The amount of fees payable for by appeal or application made under this Act shall be such as may be prescribed:

Provided that no fee shall be payable for any appeal or application filed by or on behalf of the State Government.

CHAPTER IX
PROSECUTION AND PENALTIES

Offences

20. (1) Without prejudice to any action taken or that may be taken or any order passed or may be passed under any of the provisions of this Act, whoever,-

(a) being a dealer, sells or purchases goods in contravention of sub-section (2) of Section 8 or fails or neglects to comply with the provisions of sub-section (1) thereof; or

(b) fails without sufficient cause, to submit any return required under section 9 or wilfully submits a false return; or

(c) not being a registered dealer falsely represents that he is such a dealer;or

(d) prevents or obstruct any authority under this Act in the performance of its duties and functions under this Act; or

(e) fails to pay the cess, penalty or interest due in accordance with sub-section (2) of Section 9, sub-section (3) and (4) of Section 10 or Section 11; or

(f) contravenes the provisions of Section 12; or

(g) contravenes Section 21: or

(h) abets any person in the commission of any of the offences specified in clauses (a) to (h);

shall be punishable with imprisonment of either description which may extend to one year or with fine which may extend to fifty thousand rupees or

with both and if the offence is a continuing one, with a daily fine not exceeding rupees one thousand during the period the offence continues.

(2) No court shall take cognizance of any offence under this Act or the rules made thereunder except with the previous sanction of the prescribed authority.

(3) All offences punishable under this Act shall be cognizable and bailable.

(4) Notwithstanding anything contained in sub-section (1), the prescribed authority may compound any offence under this Act or the rules made thereunder before or after the institution of proceedings under that sub-section by accepting from the person charged with the offence a sum not exceeding fifty thousand rupees as may be determined by the said authority, in addition to the tax, penalty or interest that may be leviable under the Act, and on payment of the sum so determined together with the amount of tax penalty or interest due, the proceedings before any court or prescribed authority under this section shall abate.

Check-posts

21. The State Government may, by notification, set up and erect in such manner as it may deem fit check-posts and barriers at any place in the State at which all persons, vehicles or other means of transporting goods intended for carrying such materials liable to cess under this Act may be detained, intercepted or searched to prevent evasion of cess under this Act.

Power to make rules

22. (1) The State Government may make rules in r espect of any or all matters referred to in this Act, for carrying out the purposes of this Act.

(2) In making any rules, the State Government may direct that a breach thereof shall be punishable with a fine not exceeding rupees fifty thousand and when the offence is a continuing one with a daily fine not exceeding rupees one thousand during the continuance of the offence.

(3) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters namely:-

(a) for all or any of the matters referred to in Section 3;

(b) the prescribed authority under sub-section (1) of Section 4 and sub-section (1) of Section 16;

(c) the authority to which the application for registration under Section 8 shall be made;

(d) the procedure for and other matters incidental to, the registration of dealers and the granting of certificates of registration and the forms of such certificates under Section 8;

(e) the intervals at which, and the manner in which, the tax under this Act shall be payable under Section 9;

(f) the returns to be furnished under Section 9 and dates by which, and the authority to which, such returns shall be furnished;

(g) the date by which returns for any period are to be furnished and the procedure to be followed for assessment under Section 10;

(h) the manner in which, and the authority to which appeals or revisions against by order passed under this Act may be preferred under Section 18;

(i) the procedure for, the disposal of appeals and applications for revision and reviews under Section 18;

(n) the conditions under which, and the authority by which the offences may be compounded under Section 20;

(o) the manner in which, and the time within which, applications shall be made, information furnished and notices served under this Act and

(p) any other matter which may be, or is required to be prescribed.

Repeal and Saving

23. (1) On and from date of commencement of this Act, all laws, notifications or orders issued by the Government relating to collection of environment cess or environment fee, in force in the State, shall be repealed

(2) Not withstanding such repeal, all collections of environment cess or environment fee penalty and interest and all proceedings or assessments made, action taken or orders passed by any authority under any law referred to in sub-section (1) shall be deemed to have been made, done or taken under the corresponding provisions of this Act.

SCHEDULE I
BIO-DEGRADABLE MATERIALS EXEMPTED FROM CESS
(See Section 7)

1.	All cereals and pulses including broken particles and husk and bran thereof when brought in jute bags or brought for Public Distribution System(PDS) scheme.	Except when sold in plastic packaging or sealed container.
2.	Wheat flour including atta and sabji when brought in open or in jute bags.	Except when sold in plastic packaging or container.
3.	Bread .	Except when sold in plastic or polythene packaging.
4.	Meat which has not been cured or frozen.	Except when sold as tinned or plastic packaging.
5.	Fresh fish.	
6.	Vegetables, green or dried commonly known as sabji tarkari or sak	Except when sold in plastic packaging.
7.	Gur and molasses.	
8.	Salt	
9.	Milk.	
10.	Fresh livestock, including poultry.	
11.	Cotton Yarn.	
12.	Texts books and exercise books for educational purpose and such other sacred books as maybe prescribed.	
13.	Water, but not aerated or mineral waters when sold in bottles or sealed containers.	
14.	Raw Jute and jute materials.	
15.	Plain paper and articles made there from.	
16.	Eggs.	
17.	Sag and tapioca globules.	
18.	Cotton, unstitched cotton cloth.	
19.	Handloom Woven, Gamchas, Khaddar or Khadi. Garments made of Khaddar or khadi.	
20.	Handicraft goods not made from items in Schedule II.	

21.	Mustard Oil, rape oil and mixtures of mustard and rape oil.	Except when sold in plastic packaging or sealed container.
22.	Newspapers.	
23.	Mustard seed and rape seed.	
24.	Flowers and Plants, vegetable seeds.	
25.	Hosiery goods.	

SCHEDULE II
NON-BIO DEGRADABLE MATERIALS
(See Sections 5 & 6)

1. Cement including grey and white cement including all varieties thereof.
2. Iron and steel, articles made from iron and steel, furniture made wholly or principally of iron or steel like safes, almirahs, grill, gates, furniture and other similar items made thereof.
3. New Motor Vehicles, including chassis of motor vehicles.
4. Motor tyres and tubes and spare parts accessories and component parts of motor vehicles.
5. Motor cycles and cycle combinations, motor scooters,, motorettes and tyres, tubes and spare parts accessories and component parts, of motor cycles, motor scooter, and motorettes.
6. Bricks and marble, marble chips, marble or mosaic floor and wall tiles and articles made of marble or mosaic, granite, tiles of all kinds.
7. All electrical goods of general nature including all type of wires, cables, switches of all kinds, poly pipes for concealed cabling, blubs, tube lights, fancy lights, heaters of all varieties and descriptions and all other electrical gazettes and goods including geysers, mixers, grinders, washing machines, refrigerators, air-conditioners, air-coolers and air-conditioning plants, and spare parts accessories and component parts thereof.
8. Electronic goods of all kinds and descriptions including television sets, microwaves owens, music systems of all descriptions, transistor, radios, accumulators, amplifiers and loudspeakers and spare parts accessories and component parts thereof.
9. Hardware goods of all kinds made from plastic and or iron, GI pipes, GCI sheets.
10. All kinds of paints, including acrylic and plastic emulsion paints. Lacquerers, distempers, cement colours of paints, enamels, liquid paints, stiff paste paints powder paints, whether ready for use or not.
11. Varnishes, vegetable paint removers and strainers of all kinds.
12. Bitumen, hard coke, soft coke and all other allotropic forms thereof.
13. Rubber items of all kinds and goods made there from.
14. Wines, liquor, spirit and beer.
15. Glass and glassware of all kinds.
16. Readymade food of all kinds tinned or packaged in poly packs or tetra packs.
17. Cold drinks, aerated drinks and mineral water when bottled in non degradable materials.
18. Aluminum frame and aluminum goods of all kinds, furniture made wholly or principally of aluminum
19. Plastic goods and plastic sheets and all other items made of plastic.
20. Brass, copper and brass wares and copper wares including all items made there from.
21. .All machinery and equipments used for generation of electricity in all kinds of hydel power stations. thermal power stations and other power generating equipments and power transmission lines.

22. Wireless reception instruments and apparatus, radios and radio-gramophones.
23. Cinematographic equipment including cameras, projectors and sound recording and reproducing equipment and spare parts accessories and component parts thereof lenses, films and parts and accessories required for use therewith.
24. Photographic and other cameras and enlargers and spare parts accessories and component parts thereof, lenses, films and plates, paper and cloth, and other parts and accessories required for use therewith.
25. All clocks, timepieces and watches and parts thereof.
26. All arms including rifles, revolvers and pistols, and ammunition for the same detonators and crackers.
27. Cigarette cases and lighters.
28. Dictaphone and other similar apparatus for recording sound and parts thereof and electro-magnetic recording tapes including cassette tapes whether pre-recorded or not, cells of all kinds and descriptions.
29. Sound transmitting equipment including telephones, mobile phones of all makes, loudspeaker and spare parts thereof.
30. Computers, printers, scanners and hardware connected therewith, CDs, Floppy, printer refills, typewriters, tabulating machines, calculating machines, duplicating machines photocopying machines and printing machines and parts and accessories thereof.
31. Binoculars, telescopes and opera glasses.
32. Gramophones and component parts thereof and records.
33. Cushions, mattresses, pillows and other articles made wholly or partly of artificial foam.
34. Cushions, mattresses, pillows and other article made wholly or partly of artificial or synthetic resin and plastic foam.
35. Vacuum flasks of all kinds and descriptions including refills for such flasks.
36. Utensils made wholly or principally of stainless steel or aluminum and copper.
37. Upholstered wooden furniture.
38. Perambulators including push-chairs babies and spare parts, accessories and component parts thereof.
39. Carpets of all varieties and description except locally produced.
40. Linoleum.
41. Lifts, whether operated by electricity or steam, and spare parts, accessories and component parts thereof.
42. Exhaust fans and air circulators and spare parts, accessories and component parts thereof.
43. Diamond, Precious and synthetic stones other than diamond-real or artificial.
44. Pearls-real, artificial or cultured.
45. Gold or silver jewelry and filigree.
46. Laminated sheet, like formica, Sunmica, etc.
47. Ornaments set with diamond or stones (real or artificial) or with pearls (real artificial or cultured).
48. Perfumes.
49. Cosmetics of all varieties.

By Order

R.K. Purkayastha,
Legal Remembrancer - c um- Secretary Law
F. No. 16(82) LD/P/2005

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | **Wednesday 16th April, 2008** | **No. 130**

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

NOTIFICATION

No. 21/LD/P/2008 **Date: 10.04.2008**

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 28th day of March, 2008 is hereby published for general information:-

THE SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS (AMENDMENT) ACT, 2008

ACT NO. 5 OF 2008

A
ACT

further to amend the Sikkim Ecology Fund and Environment Cess Act, 2005.

Be it enacted by the Legislature of Sikkim in the Fifty-ninth Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Sikkim Ecology Fund and Environment Cess (Amendment) Act, 2008.
(2) It extends to the whole of Sikkim.
(3) Except when specifically provided otherwise in this Act for a particular provision, it shall be deemed to have come into force on the 1st day of April, 2007.

Amendment of section 2

2. In the Sikkim Ecology Fund and Environment Cess Act, 2005, (hereinafter referred to as the said Act), in Section 2,-
(i) in Explanation to clause (h), for the word and figure "Schedule I",the word and figure "Schedule II" shall be substituted,
(ii) after clause (h), the following clause shall be inserted, namely:-
"(hh) "person" means and includes any individual, firm, proprietor, Hindu Undivided Family, company or corporation including manufacturing company and corporation, Department of Central and State Governments and of other State Governments,Public Sector Undertaking, Autonomous Body, any authority established under any statute, society, club, association or incorporation of such society, club and association, and contractors engaged in the business of works contract whether under the Central or any of the State Governments or not;"

(iii) after clause (k), the following clause shall be inserted, namely,-
"(kk) "purchase invoice" means an invoice or cash memorandum or a bill showing total cost of the price of the goods specified in Schedule II, inclusive of all the charges, paid by a person to the selling dealer of any State other than Sikkim, whether registered under any Act of that State or not" ;

(iv) in clause (l), for the word and figure "Section 10" , the word and figure "Section 8" shall be substituted;

(i) in clause (m), after the last words "deferred payment" and before the punctuation mark ";", the following words shall be inserted,namely:-
"and includes the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract" ;

(ii) in Explanation 2 to clause (n),-
(a) the words "value added tax" appearing after the words and punctuation mark "excise duty," shall be omitted, ;
(b) the following Provisos shall be inserted to the said Explanation, namely:-
"Provided that value added tax and local sales tax payable under any other Acts of the State Government shall not be included in the sale price;
Provided further that the above Proviso shall come into force from the date of publication of this Act in the Official Gazette."

Amendment of section 5

3. In the said Act, for the existing section 5, the following shall be substituted, namely:-
"5. Environment cess shall be paid by:-
(1) (a) Every dealer or person including the person engaged in the business of works contract, whoever brings non-bio degradable materials as specified in Schedule II for sale, in Sikkim from outside Sikkim, on the sales turnover of such non-biodegradable materials or goods, from the date of commencement of the said Act:

Provided that in the case of persons engaged in the business of works contract, the paying authority of the contractee shall deduct the cess at source on total works bill value or amount at the rate specified in section 6 of this Act, in the manner as prescribed or may be prescribed."

(b) Every person or dealer, whoever brings non-bio degradable materials as specified in Schedule II in Sikkim from outside Sikkim for own use and consumption or for whatsoever purpose other than making sales in Sikkim, on the purchase invoice value, from the date of commencement of this Act:

Provided that the person or dealer whoever is engaged in the business of manufacturing of goods, shall pay the cess at such rate as specified in section 6 of this Act:

Provided further that when any person or dealer has paid cess in accordance with the provisions laid down in first Proviso, no such person or dealer shall be liable for cess under this Act for sales of manufactured goods within Sikkim.

(c) Every hotel, resort, lodge or motel operating or carrying on business within Sikkim, on the sales turnover.

(2) The State Government may by notification,allow payment of composite cess to such dealer or class of dealers having turnover below a specified limit, and in such manner, as prescribed or may be prescribed in the notification:

Provided that the prescribed authority shall verify the veracity of the turnover of the dealer and satisfy himself that the dealer exercising option for composite cess is eligible as such.

(3) On entry in Sikkim of such categories of vehicles, at such rates, and on such terms and conditions as may be specified by notification by the State Government.

(4) On any such other item having impact on environment directly or indirectly, at such rate or rates and on such conditions as may be prescribed by the State Government by notification."

Amendment of section 6

4. In the said Act, for the existing section 6, the following shall be substituted, namely:-

" 6. (1) The cess payable under the said Act shall be levied at the following rates, namely:-

(i) in respect of the sale of goods specified in Schedule II, by the persons specified in clause (a) of sub-section (1) of section 5, other than the persons engaged in the business of works contract, at the rate of one percent on total turnover of sales;

(ii) in respect of the goods or materials transferred in execution of works contract, at the rate of 0.50% on the gross value of the works bill:

Provided that this clause shall come into force from the date of publication of this Act in the Official Gazette;

(iii) in respect of the goods specified in Schedule II, by the persons and for the purpose specified in clause (b) of sub-section (1) of section 5, other than the persons engaged in the business of manufacturing, at the rate of one percent of the purchase price shown in the valid purchase invoice or on the local market price value if no valid purchase invoice is produced before the prescribed authority:

Provided that the prescribed authority may determine the market price at the relevant point of time after such verifications as he deems necessary;

(iv) in respect of the persons engaged in the business of manufacturing of goods specified in clause (b) of sub-section (1) of section 5, at the rate of 0.50% on the total purchase invoice value:

Provided that this clause shall come into force from the date of publication of this Act in the Official Gazette;

(v) In respect of hotel, resort, lodge or motel, at the rate of one percent on the gross sales turnover.

(2) The State Government may revise the rate of cess under clause (i), (ii), (iii), (iv) and (v) of sub-section (1) of section 6 from time to time by notification.

(3) The State Government may by notification, add to or omit from, or otherwise amend Schedule II and thereupon the said Schedule shall be deemed to be amended accordingly."

Insertion of new section 6A

5. In the said Act, after section 6, the following new Section shall be inserted, namely,-

"6A. Point of levy, and remittance of cess in certain cases.-

(1) The cess payable on sales of goods specified in Schedule II by a registered dealer shall be levied only once at the first stage or point of sales occurred in Sikkim after such goods are brought or imported from outside Sikkim.

(2) The persons referred to in clause (b) of sub-section (1) of section 5, but excluding individuals, whoever brings or imports into Sikkim from outside Sikkim goods

specified in Schedule II to the Act, for own use and consumption or for whatsoever purpose other than sales, shall remit the cess to the appropriate Head of Revenue at such stage, within such time and in such manner as prescribed or as may be prescribed."

Amendment of section 8

6. In the said Act, in section 8,-
(i) in sub-section (1), after the words "pay cess" and before the words "under this Act", the following words and punctuation marks shall be inserted, namely,-
"on sales of goods or materials specified in Schedule II,",
(ii) in sub-section (2), after the words "pay cess" and before the words "under this Act", the following words and punctuation marks shall be inserted, namely,-
"on sales of goods or materials specified in Schedule II,",

Amendment of section 10

7. In the said Act, in clause (a) of sub-section (3) of section 10, for the word and figure "section 11", the word and figure "section 9" shall be substituted.

Amendment of section 22

8. In the said Act, in clause (e) of sub-section (3) of section 22, for the word "tax" the word "cess" shall be substituted.

Amendment of Schedule I

9. In the said Act, in Schedule I, after serial number 25, the following serial number and item shall be inserted, namely,-
"26. Any other biodegradable materials defined in clause (a) of section 2 which is not specified by name in this Schedule."

Amendment of Schedule II

10. In the said Act, in Schedule II, after serial number 49, the following serial number and item shall be inserted, namely,-
"50. Any other non-biodegradable materials defined in clause (a) of section 2 which is not specified by name in this Schedule."

By Order.

R.K. PURKAYASTHA (SSJS)
LR-cum-Secretary
Law Department
File No. 16 (82)/ LD/P/2008

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Tuesday 10th March, 2009 | No. 70

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 1/LD/P/ 2008

Date: 07.03.2009

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 2nd day of March, 2009 is hereby published for general information-:

THE SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS (AMENDMENT) ACT, 2009
(ACT NO. 1 of 2009)

AN
ACT

to amend The Sikkim Ecology Fund and Environment Cess Act, 2005.

Be it enacted in the Sixtieth Year of the Republic of India as follows:-

Short title and commencement

1. (1) This Act may be called the Sikkim Ecology Fund and Environment (Amendment) Act, 2009.

(2) It shall come into force on the date of its publication in the Official Gazette.

Amendment of Section 13

2. In the Sikkim Ecology Fund and Environment Cess Act, 2005 in Section 13, sub-section (3) shall be omitted.

By Order.

R.K. PURKAYASTHA (SSJS)
LR-cum-Secretary
Law Department

File No: 16 (82)/LD/P/2009

S.G.P.G. - 70/ Gazette/ 100 Cps./ 10.03.2009

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Thursday 11th October, 2012 | No.513

LAW DEPARTMENT
GOVERNMENT OF SIKKIM
GANGTOK

No. 4/LD/P/12 Date: 10/10/12

NOTIFCATION

The following Act passed by the Sikkim Legislative Assembly and having received the ascent of the Governor on 29th day of June, 2012 is hereby published for general information:-

THE SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS (AMENDMENT) ACT, 2012

ACT NO. 4 OF 2012

AN
ACT

further to amend the Sikkim Ecology Fund and Environment Cess Act, 2005.

Be it enacted by the Legislature of Sikkim in the Sixty-third Year of the Republic of India as follows:-

Short title, extent and commencement.

1. (1) This Act may be called then Sikkim Ecology Fund and Environment Cess (Amendment) Act, 2012.

(2) It extends to the whole of Sikkim.

(3) It shall be deemed to have come into Force on the 2nd day of April, 2007.

Amendment of Section 2.

2. In the Sikkim Ecology Fund and Environment Cess Act, 2005, (hereinafter referred to as the said Act), in clause (h) of section 2, in the Explanation, for the word and figure "Schedule I", the word and figure "Schedule II" shall be substituted.

Amendment of Section 3.

3. In the said Act, in clause (d) of sub-section (2) of section 3, after the words "measures", the words "directly or through the regular budgetary

procedure or a mix of both as deemed fit by the State Government for carrying out the purposes of the Act in public interest" shall be inserted.

Amendment of Section 13.

4. In the said Act, in sub-section (3) of section13, for the word "current", the words "interest bearing" shall be substituted and after the words and the punctuation "financial year" the words "The interest accrued, thus shall be utilized exclusively for the purpose of this Act" shall be inserted.

Amendment of Section 14.

5. In the said Act, in section 14, after the words "collections to this fund", the words "or through appropriate budgetary allocation or both" shall be inserted.

Amendment of Section 15.

6. In the said Act, after clause (b) of sub- section (1) of section 15, the following clause shall be inserted, namely;-

"(c) deferring the expenditure incurred on people and machinery engaged for the purposes of the Act".

R.K. Purkayastha
LR-cum-Secretary,
Law & Parliamentary Affairs Department.

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Tuesday 17th May, 2016 | No. 173

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 5/LD/16 **Dated: 28.04.2015**

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 29th day of March, 2016 is hereby published for general information:-

THE SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS (AMENDMENT) ACT, 2016
ACT NO. 5 OF 2016
AN ACT

further to amend the Sikkim Ecology Fund and Environment Cess Act, 2005

Be it enacted by the Legislature of Sikkim in the Sixty-seventh Year of the Republic of India as follows :-

Short title, extent and commencement.

1. (1) This Act may be called the Sikkim Ecology Fund and Environment Cess (Amendment) Act, 2016

(2) It extends to the whole of Sikkim

(3) It shall come into force at once.

Amendment of section 2.

2. In the Sikkim Ecology Fund and Environment Cess Act, 2005 (hereinafter referred to the said Act, in section 2,

(1) in clause (g), after the word "extracting", the word "refining" shall be inserted;

(2) In clause (h),-

(i) in the Explanation, after the words and figure "Schedule II", the words and figure "Schedule III", shall be inserted;

(ii) in the proviso, after the words and figure Schedule II, the words and figure"Schedule III", shall be inserted.

Amendment of section 5

3. In the Act, in section 5, after the word and figure "Schedule II", the word and figure "Schedule III" shall be inserted.

Amendment of section 6

4. In the said Act, in section 6,-

(1) after clause (a) and the entries relating thereto, the following clause shall be inserted, namely:

"(aa) in respect of goods specified in Schedule III, at the rate of 0.025% of total turnover on sale price of non bio-degradable materials";

(2) in second proviso, after the word and figure "Schedule II", the word and figure "schedule III", shall be inserted,

(3) after second proviso, the following proviso shall be inserted, namely:

"Provided also that the State Government may change the rate of leviable cess under clause (aa) above after expiry of a period of 15 (fifteen) years and thereafter, from time to time by notification".

Insertion of new Schedule

5. In the said Act, after the existing Schedule II, the following new Schedule shall be inserted, namely:-

"SCHEDULE III

(NON-BIO DEGRADABLE MATERIALS)
(see section, 5 and 6)

REFINING OF GOLD, SILVER, PLATINUM, PALLADIUM, RHODIUM, OTHER PLATINUM GROUP METALS AND OTHER HIGH VALUE PRECIOUS METALS"

Lakchung Sherpa (SSJS)
L.R.-cum-Secretary
Law Department.